

Introduced by Senator Wiggins

February 22, 2007

An act to amend Section 20230 of, and to repeal and add Chapter 4.5 (commencing with Section 50950) of Part 1 of Division 1 of Title 5 of the Government Code, relating to firefighters.

LEGISLATIVE COUNSEL'S DIGEST

SB 581, as introduced, Wiggins. Firefighters: volunteer firefighters length of service awards.

(1) The Public Employees' Retirement Law provides retirement benefits for state employees and public employees of local agencies that contract for retirement benefits with the Board of Administration of the Public Employees' Retirement System. Under that law, data filed by a member or beneficiary with the Board of Administration is confidential and shall not be divulged unless a specified exception applies.

This bill would require the Board of Administration of the Public Employees' Retirement System to transfer, upon request of the board of the California State Fire Employees Welfare Benefit Corporation, data and files of the members subject to that act that is in the possession of the Board of Administration.

(2) Existing law establishes the Volunteer Firefighters Length of Service Award Act and authorizes local agencies with regularly organized fire departments to contract with the Board of Administration of the Public Employees' Retirement System to make the volunteer firefighters of those local agencies members of the service award system. Under existing law, a volunteer firefighter subject to the service award system is entitled to an award upon attaining 60 years of age and accruing a minimum of 10 years of length of service award credit, and

not to exceed 20 years of length of service award credit. Under existing law, all moneys received pursuant to these provisions are deposited in the Volunteer Firefighters Length of Service Award Fund, a continuously appropriated fund in the State Treasury.

This bill would repeal these provisions and instead authorize those local agencies with regularly organized fire departments to contract with the board of the California State Fire Employees Welfare Benefit Corporation to make the volunteer firefighters of those local agencies members of the service award system. The bill would require that board to maintain a plan pursuant to specified provisions of the Internal Revenue Code and to select a financial institution or other qualified entity to act as trustee and establish a trust for the award system, as specified. The bill would provide that the representatives on the board administer the award system subject to specified fiduciary duties and for the exclusive purpose of providing benefits to members of the award system. The bill would also require the board to adopt rules and regulations to administer the award system, including, but not limited to, eligibility requirements for membership in the award system, requirements for a member to receive an award, and the amount of an award payable under the act.

This bill would further require a volunteer firefighter who is a member of the award system and the members of the qualifications review commission, as specified, to certify, under penalty of perjury, that the volunteer firefighter has actively participated in specified fire department activities. By creating a new crime, the bill would create a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 20230 of the Government Code is
- 2 amended to read:
- 3 20230. (a) Data filed by ~~any~~ a member or beneficiary with
- 4 the board is confidential, and ~~no~~ an individual record shall *not* be

divulged by ~~any~~ *an* official or employee having access to it to ~~any~~ a person other than the member to whom the information relates or his or her authorized representative, the contracting agency or school district by which he or she is employed, any state department or agency, or the university. The information shall be used by the board for the sole purpose of carrying into effect the provisions of this part. ~~Any information~~ *Information* that is requested for retirement purposes by ~~any~~ *a* public agency shall be treated as confidential by the agency.

~~The~~

(b) The gross amount of ~~any~~ *a* benefit or ~~any~~ refund of a ~~PERS retirement system~~ contribution due to a member or beneficiary is not confidential and may be released upon request to the board.

~~The~~

(c) The board may seek reimbursement for reasonable administrative expenses incurred when providing that information. Except as provided by this section, no member's, beneficiary's or annuitant's address, home telephone number, or other personal information shall be released.

~~For~~

(d) For purposes of this section, "authorized representative" includes the spouse or beneficiary of a member when no contrary appointment has been made and when, in the opinion of the board, the member is prevented from appointing an authorized representative because of mental or physical incapacity or death.

(e) Notwithstanding subdivision (a), the board shall transfer, upon request of a board described in subdivision (f) of Section 50952, data and files in the possession of the board relating to members of the Volunteer Firefighters Length of Service Award Act previously administered by the board.

SEC. 2. Chapter 4.5 (commencing with Section 50950) of Part 1 of Division 1 of Title 5 of the Government Code is repealed.

SEC. 3. Chapter 4.5 (commencing with Section 50950) is added to Part 1 of Division 1 of Title 5 of the Government Code, to read:

1 CHAPTER 4.5. VOLUNTEER FIREFIGHTERS LENGTH OF SERVICE
2 AWARD ACT

3
4 Article 1. General Provisions
5

6 50950. It is the purpose of this chapter to provide cities,
7 counties, cities and counties, or districts, that have fire departments
8 with volunteer firefighting members, the opportunity to offer these
9 members an award for life as an incentive. Nothing contained in
10 this chapter shall be deemed to supersede the provisions of existing
11 state law and the charters, ordinances, and rules of local public
12 agencies that establish and regulate the activities of these fire
13 departments. This chapter is intended, instead, to strengthen these
14 departments through the creation of an incentive for the volunteer
15 to respond to emergency calls and attend official department
16 training drills and meetings. It is the further intention of this chapter
17 to provide a means for local communities to bestow fitting reward
18 and recognition for long and faithful volunteer service.

19 50951. (a) This chapter establishes the Volunteer Firefighters
20 Length of Service Award System and may be cited as the Volunteer
21 Firefighters Length of Service Award Act.

22 (b) Enrollment for an award shall not be construed as a
23 retirement, the receipt of an award shall not be construed as the
24 receipt of a retirement allowance or benefit, and service credited
25 under the Volunteer Firefighters Length of Service Award System
26 shall not be construed as service credited to a retirement system
27 for purposes of duplicating service credit or benefits in other public
28 retirement systems.

29 50952. For the purposes of this chapter, unless the context
30 otherwise requires, the definitions set forth below shall mean the
31 following:

32 (a) “Actuarial interest rate” means the interest rate fixed by the
33 board for purposes of actuarial valuation of the assets and liabilities
34 of the award system.

35 (b) “Annual interest rate” means the interest rate fixed by the
36 board for purposes of crediting interest.

37 (c) “Award” means monthly payments for life derived from
38 contributions by a department.

1 (d) “Award recipient” means a former member who satisfied
2 all the requirements as determined by the board to be eligible to
3 receive an award, and is receiving an award.

4 (e) “Award system” means the Volunteer Firefighters Length
5 of Service Award System established by this chapter.

6 (f) “Board” means the board of the California State Fire
7 Employees Welfare Benefit Corporation.

8 (g) “Certified prior service credit” means credit for service
9 performed prior to the contract operative date as certified by a
10 qualifications review commission. That prior service shall be
11 credited in the award system to the extent that prior service
12 qualifies as certified service credit pursuant to the rules and
13 regulations established by the board.

14 (h) “Certified service credit” means credit certified pursuant to
15 Section 50960 for services rendered by a member.

16 (i) “Contract operative date” means the first day of the month
17 next following the date on which the contract becomes effective.

18 (j) “Department” means any of the following:

19 (1) A regularly organized fire department of a city, county, city
20 and county, or district, having official recognition of the
21 government of the city, county, city and county, or district in which
22 the department is located.

23 (2) A regularly organized fire department of an unincorporated
24 town.

25 (k) “Fund” means the Volunteer Firefighters Length of Service
26 Award System Fund described in Section 50956.

27 (l) “Member” means a volunteer of a department, the governing
28 body of which has contracted with the board under this chapter,
29 and who has been certified by a qualifications review commission
30 as having satisfied all the requirements for membership as set
31 established by the board. Membership, once established, continues
32 indefinitely until the award system is terminated and the funds
33 disbursed pursuant to 50974.

34 (m) “Service credit” means the aggregate of certified service
35 credit.

36 (n) “Service year” means the period beginning July 1 and ending
37 June 30 of the following year.

38 (o) “Volunteer” means a person registered as a volunteer
39 member of a regularly organized fire department as defined in
40 subdivision (j).

1 Article 2. Administration, Award System, and Membership

2
3 50953. (a) The award system shall be administered by the
4 board and the board shall comply with the following requirements:

5 (1) The board shall maintain a plan as described in Section
6 457(e)(11) of Title 26 of the United States Code.

7 (2) The representatives on the board shall be elected.

8 (3) The representatives on the board shall administer the award
9 system with the reasonable care, skill, prudence, and diligence
10 under the circumstances then prevailing that a prudent person
11 acting in a like capacity and familiar with the award system would
12 use in the conduct of an enterprise of a like character and with like
13 aims.

14 (4) The representatives on the board shall be subject to the
15 prudent investor standard with regard to the fund.

16 (5) The award system shall be administered for the exclusive
17 purpose of providing benefits to members of the award system.

18 (6) The board shall select a financial institution or other entity
19 that qualifies under the laws of this state to act as a trustee of and
20 establish a trust described in Internal Revenue Service Revenue
21 Procedure 92-64.

22 (b) The board shall adopt rules and regulations to administer
23 the award system, including, but not limited to, all of the following:

24 (1) Eligibility requirements for a member to receive an award,
25 including, but not limited to, minimum age and minimum years
26 of certified service credit.

27 (2) Eligibility requirements for a member to include certified
28 prior service credit as certified service credit in calculating the
29 amount of his or her award or to qualify for an award.

30 (3) The amount of an award payable under this chapter and any
31 cost of living adjustments or supplemental payments based upon
32 that award.

33 (4) Eligibility requirements for membership in the award system.

34 (5) The maximum years of certified service credit a member
35 may accrue under the award system.

36 (6) Other rules and regulations that the board determines are
37 appropriate to administer this chapter.

38 (c) In addition to those powers and duties, the board shall
39 determine if participation in the award system is adequate to insure
40 that sufficient funds will be available for the payment of awards

1 on an actuarial reserve basis before any awards are paid. If the
2 board determines that participation in the award system is
3 inadequate to assure the financial success of the system, the board
4 may terminate the award system pursuant to Section 50974 or
5 amend the award system pursuant to the rules and regulations of
6 the board.

7 (d) Notwithstanding subdivision (a), the assets of the fund
8 attributable to the benefit of registered volunteers of a department
9 are subject to the claims of creditors of the department in the case
10 of the insolvency of the department. The assets of the fund that
11 are not attributable to the benefits of registered volunteers of an
12 insolvent department are not subject to the claims of the creditors
13 of the insolvent department.

14 50954. (a) The board shall, from time to time, determine and
15 fix the annual interest rate and actuarial interest rate.

16 (b) The board shall keep in convenient form the data necessary
17 for the actuarial valuation of the award system. The board shall,
18 at least quadrennially, cause to be made an actuarial investigation
19 into the mortality and service experience of members and persons
20 receiving awards and an actuarial valuation of the assets and
21 liabilities of the award system.

22 (c) When there is insufficient data upon which to establish
23 mortality rates or other actuarial assumptions required to evaluate
24 the obligations of the award system, the board may adopt
25 appropriate assumptions that, upon the advice and recommendation
26 of the actuary, are necessary.

27 50955. (a) On the basis of investigation and valuation, the
28 board shall adopt the mortality, service, and other tables as it deems
29 necessary, and shall make changes in the contributions required
30 from contracting departments as the board considers appropriate
31 in order to assure the actuarial soundness of this award system.

32 (b) The board shall credit all contributions of departments in
33 the fund with interest at the annual interest rate compounded at
34 each June 30.

35 (c) Data filed by a member or department with the board is
36 confidential, and no individual record shall be divulged by an
37 official or employee having access to that data to a person other
38 than the member to whom the information relates or his or her
39 authorized representative, or the department that employs the

1 member. That information shall be used by the board for the sole
2 purpose of carrying into effect the provisions of this chapter.

3 (d) Each volunteer member and department shall file with the
4 board the information and evidence as may be required by the
5 board in administration of this award system.

6 50956. The custodian of the fund, subject to the exclusive
7 control of the board to administer and invest the assets of the fund,
8 shall be a financial institution eligible to establish and administer
9 a trust described in Internal Revenue Service Revenue Procedure
10 92-64. The assets in the fund shall be used to pay the costs of
11 administration and for the payment of awards under this chapter.

12 50957. The Board of Administration of the Public Employees'
13 Retirement System shall transfer, upon request of the board, data
14 and files in the possession of the Board of Administration relating
15 to members of the Volunteer Firefighters Length of Service Award
16 Act previously administered by the Board of Administration.

17 18 Article 3. Service Credit and Contributions 19

20 50958. Only members may accumulate service credit in the
21 award system. A volunteer becomes a member when he or she
22 satisfies the minimum requirements for membership, as established
23 by the board, and the minimum service requirements as certified
24 by a qualifications review commission. Membership shall terminate
25 on the day prior to the effective date of an award pursuant to
26 Section 50962.

27 50959. (a) The award system shall be funded by contributions
28 paid by contracting departments and income from the fund. The
29 award system is a noncontributory system, and no contributions
30 shall be required from members of the award system.

31 (b) As determined by actuarial valuation reported to the
32 contracting department by the award system, each contracting
33 department shall make contributions annually, not later than
34 October 1 of each year, sufficient to meet the prescribed amount
35 with respect to volunteers of the contracting department, in
36 accordance with the conditions provided in its contract under the
37 award system.

38 (c) Contributions of all contracting departments shall be applied
39 by the board during each fiscal year to meet the obligations of all
40 departments collectively, pursuant to the following order:

1 (1) In an amount equal to the liabilities accruing on account of
2 awards payable on account of current service.

3 (2) The balance of contributions on any other liability incurred
4 under this chapter.

5 50960. (a) Only those volunteers who have been certified by
6 their contracting department as having satisfactorily completed a
7 service year shall be credited with current service for that year. A
8 member is not required to qualify in consecutive years.

9 (b) Members of departments contracting on or after the effective
10 date of this chapter may initially be credited with a full service
11 year if the board authorizes credit for that service and the member
12 and his or her department satisfy the other requirements established
13 by the board, including, but not limited to, certification by the
14 department's qualifications review commission.

15 (c) A satisfactory service year credit shall be determined by a
16 member's active participation in all of the following fire
17 department activities.

18 (1) Training drills.

19 (2) Responses to emergency calls.

20 (3) Attendance at official department and association meetings.

21 (d) Contracting departments shall maintain adequate records to
22 show that a credited member was a participating member of the
23 department during the year of certification. The records may
24 include, but are not limited to, the following:

25 (1) Department run logs.

26 (2) Department training records.

27 (3) Certificates of training.

28 (4) Records of exposures to hazardous products.

29 (5) Minutes of departmental or association meetings.

30 50961. (a) The governing body of each contracting department
31 shall establish a qualifications review commission that shall include
32 the fire chief, one member of the governing body appointed by the
33 governing body, and one volunteer elected by the volunteers
34 employed by the contracting department.

35 (b) The qualifications review commission shall review the list
36 of department members each year, and prior to October 1 of each
37 year shall certify to the board those volunteers who have qualified.

38 (c) In no event shall a member be credited with more than the
39 maximum number of years of service allowed in the award system,
40 as established by the rules and regulations of the board.

(d) With respect to each contracting department that provides benefits for prior service credit, the qualifications review commission shall promulgate and publish guidelines for computing prior service credit. The guidelines shall require the prior service credit to be verified and certified and, in the event that there are no records in existence, the members of the commission and the volunteer shall sign an affidavit certifying that the prior service met the criteria prescribed in Section 50960. The affidavit shall be signed under penalty of perjury. Thereafter, the qualifications review commission shall certify to the board certified prior service credit that has been earned by each member.

50962. When the member's application for an award is received by the board, an award shall be granted to accrue and become effective pursuant to the terms, conditions, and eligibility requirements established by the board.

50963. The board shall determine the terms, conditions, and eligibility requirements for all of the following:

- (a) The amount of an award payable under the award system.
- (b) If a member is entitled to a cost of living adjustment and the amount of that cost of living adjustment.
- (c) If a member is entitled to receive and the amounts of supplemental payments based upon an award.
- (d) Any death benefits payable to a member's designated beneficiary or the estate of the member.
- (e) All other benefits authorized by the board under this chapter.

Article 4. Contract Provisions

50964. (a) Except as described in subdivision (b), a department may participate in and make all of its volunteers members of the award system by a contract entered into between the governing body of the department and the board pursuant to this chapter.

(b) The board may prohibit a new contract with or may establish terms and conditions regarding a new contract for a department that has previously terminated a contract for participation under this chapter.

50965. When the governing body of a department desires to consider participation in the award system, the governing body shall ask the board for a quotation of the approximate contribution

1 to the award system that would be required by the department for
2 participation in the award system.

3 50966. An employee organization, recognized under the
4 provisions of appropriate authority, may request the governing
5 body of the department to ask the board for a quotation of the
6 approximate contribution to the award system that would be
7 required of the department for participation in the award system,
8 and if the employee organization is willing to pay for the cost of
9 that quotation, the department shall make the request. The board
10 shall furnish copies of the quotation to both the department and
11 the employee organization.

12 50967. On request of the board, the department shall furnish
13 the data concerning its volunteers as the board requires to make
14 the necessary valuations and investigations into the experience
15 among the volunteers.

16 50968. The approximate contribution quoted by the board and
17 the actual contribution to be made if a contract results shall be
18 determined by actuarial valuations of the future service liability
19 under the award system, on account of the volunteers involved in
20 the computation, and in consideration of other circumstances that
21 may be adopted by the board, upon recommendation of the actuary.

22 50969. The approximate and actual contributions payable by
23 a contracting department shall be similar to premiums under
24 insurance policies. The approximate contribution quoted by the
25 board to the department is subject to the contingency that the actual
26 contribution certified by the board after the approval of a contract
27 may differ from the approximate contribution because of any of
28 the following:

29 (a) Time elapsed between the quotation and operative date of
30 the contract.

31 (b) Any changes in the facts or assumptions upon which the
32 quotation was based.

33 50970. (a) Approval of the contract by the governing body of
34 the department shall be by resolution or by any other means
35 permitted by law.

36 (b) The board shall inform the governing body of the projected
37 costs of the program.

38 50971. Errors in a contract may be corrected through
39 amendments approved by the adoption of suitable resolutions by
40 the contracting parties. All contract amendments shall be made in

1 the same manner as prescribed for the approval of the initial
2 contract.

3
4 Article 5. Termination and Limitations
5

6 50972. The contract may be terminated by the governing body
7 of a contracting department by resolution or by any other means
8 permitted by law. All liability of the department with respect to
9 its volunteer members of the award system shall cease. All moneys
10 deposited in the fund shall be held for the continued payment of
11 previously granted awards and the costs of administration.

12 50973. The board may provide that an award under this chapter
13 shall not be payable, or begin to accrue, until the board establishes,
14 by appropriate resolution, that the fund contains sufficient net
15 assets to make the payments provided by this chapter based upon
16 an actuarial reserve basis.

17 50974. Upon termination of the award system, assets in the
18 fund shall be disbursed in the following order:

19 (a) An amount sufficient to pay awards shall be retained by the
20 board.

21 (b) An amount sufficient to pay reasonable administrative
22 expenses shall be retained by the board.

23 (c) From any balance in the fund after the above amounts have
24 been retained or disbursed, each department's accumulated
25 contributions, less a proportionate share of the amount retained
26 for reasonable administrative expenses, less the amount retained
27 to pay awards of that department's volunteers, shall be refunded
28 to the department.

29 SEC. 4. No reimbursement is required by this act pursuant to
30 Section 6 of Article XIII B of the California Constitution because
31 the only costs that may be incurred by a local agency or school
32 district will be incurred because this act creates a new crime or
33 infraction, eliminates a crime or infraction, or changes the penalty
34 for a crime or infraction, within the meaning of Section 17556 of
35 the Government Code, or changes the definition of a crime within
36 the meaning of Section 6 of Article XIII B of the California
37 Constitution.